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TRADING IN PRESSURE: THE INTERNATIONAL LEGALITY OF PAIRING SANCTIONS WITH PUNITIVE TARIFFS AS INSTRUMENTS OF STATE COERCION

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ABSTRACT

The concurrent deployment of economic sanctions and punitive tariffs by major trading powers has produced a novel and understudied challenge for public international law. Individually, each instrument carries a recognized, if contested, legal genealogy: sanctions find their footing in Chapter VII of the UN Charter and a network of domestic emergency powers statutes, while punitive tariffs are notionally governed by the General Agreement on Tariffs and Trade (GATT) and its progeny under the World Trade Organization (WTO) framework. When paired, however, these two instruments operate in a legal space that is neither fully captured by WTO dispute settlement nor adequately addressed by general international law. This article argues that the practice of sanctions-tariff pairing, as exemplified by United States conduct toward China since 2018 and by the European Union's Anti-Coercion Instrument adopted in 2023, represents a qualitatively distinct form of economic coercion that strains existing legal categories. Drawing on WTO jurisprudence, ICJ case law, and a comparative analysis of domestic anti-coercion instruments, the article evaluates whether the combined use of these tools violates the non-intervention principle, the good faith obligation in treaty law, or specific prohibitions embedded in the WTO agreements. It concludes that while no single rule clearly prohibits the pairing, the cumulative practice of weaponizing trade points toward an emergent norm that demands fresh multilateral architecture.

Keywords: *economic coercion; sanctions; punitive tariffs; WTO Article XXI; GATT national security exception; Anti-Coercion Instrument; Section 301 tariffs*

I. INTRODUCTION

Trade has always carried a political dimension, but the degree to which sovereign States have begun treating market access, tariff schedules, and financial exclusion as instruments of coercive statecraft has accelerated sharply since the late 2010s. The United States' imposition of broad Section 232 and Section 301 tariffs on Chinese goods from 2018 onwards, followed by reciprocal Chinese measures and the eventual codification of anti-coercion machinery in the European Union, has prompted a fundamental question that international economic law has been slow to confront: what happens when sanctions and tariffs are not used as discrete policy tools but are deliberately layered to compound pressure on a target State?

The answer matters for several reasons. First, the WTO dispute settlement system, already weakened by the paralysis of the Appellate Body since 2019, has proved an inadequate forum for resolving disputes of this character.[1] Second, the invocation of the national security exception under GATT Article XXI as a near-blanket shield against review has progressively hollowed out the rule-based trading order.[2] Third, the emergence of domestic anti-coercion legislation in major jurisdictions represents a structural shift away from multilateralism toward a managed bilateralism that privileges power over principle.

This article proceeds as follows. Part II situates sanctions and tariffs within their respective legal frameworks. Part III analyses the practice of pairing these instruments and the gap it reveals. Part IV reviews the relevant WTO and ICJ jurisprudence. Part V presents a comparative analysis of domestic anti-coercion statutes. Part VI addresses the statistical picture of sanctions and tariff escalation. Part VII identifies structural weaknesses in existing law and proposes reform directions. Part VIII concludes.

II. SANCTIONS AND TARIFFS: SEPARATE GENEALOGIES, CONVERGING PRACTICE

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[1] *Marrakesh Agreement Establishing the World Trade Organization* (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 154 art IX; *Understanding on Rules and Procedures Governing the Settlement of Disputes* (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 401 art 17.

[2] *General Agreement on Tariffs and Trade 1994* (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 187 art XXI; *Understanding on Rules and Procedures Governing the Settlement of Disputes* (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 401 art 3.2.

A. The International Legal Framework for Sanctions

Economic sanctions, in their most authoritative form, derive from Article 41 of the United Nations Charter, which empowers the Security Council to call upon UN Member States to apply measures not involving the use of armed force, including the complete or partial interruption of economic relations.[3] The Council has exercised this power in respect of Southern Rhodesia, South Africa, Iraq, North Korea, Iran, Libya, and a range of non-State actors, among others.

Unilateral sanctions, imposed without Security Council authorisation, occupy considerably more contested legal terrain. The United States has long maintained an extensive apparatus of unilateral economic sanctions administered by the Office of Foreign Assets Control (OFAC) under the International Emergency Economic Powers Act (IEEPA). As at June 2024, the OFAC Specially Designated Nationals list contained approximately 19,800 entries, a fivefold increase from the year 2000.[4] The European Union similarly administers a sanctions regime of significant scale and geographic reach, deploying asset freezes, travel bans, and sectoral restrictions across dozens of country-specific regimes.

The legality of unilateral sanctions under general international law remains contested. The primary normative constraint is the customary international law principle of non-intervention, which prohibits States from coercing another State in matters within its domaine reserve.[5] A further constraint, derived from the law of State responsibility, prohibits countermeasures that are disproportionate to the internationally wrongful act to which they respond. The practice of imposing secondary sanctions, which expose nationals of third States to penalties for doing business with a sanctioned target, is particularly difficult to reconcile with these constraints.

B. The GATT and WTO Framework for Tariffs

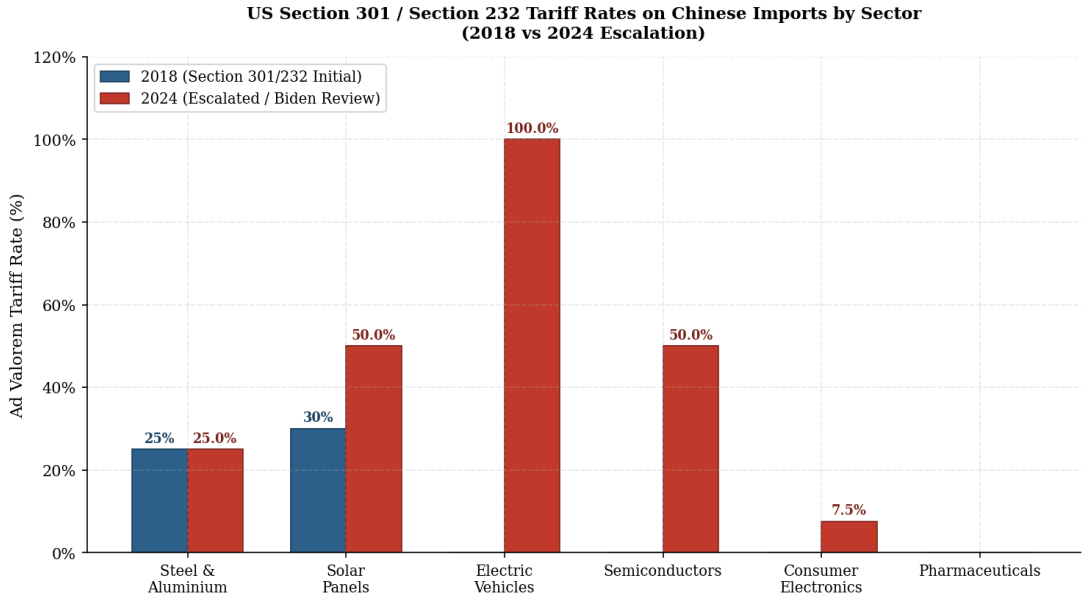
3*Charter of the United Nations* (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI art 41.

4Office of Foreign Assets Control, 'SDN List Statistics' (US Department of the Treasury, June 2024) https://www.treasury.gov/ofac/downloads/sdnstats.pdf accessed 10 June 2026.

5*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* (Merits) [1986] ICJ Rep 14, paras 241–245.

The postwar trading order, crystallised in the GATT of 1947 and carried forward into the 1994 WTO agreements, rests on a set of core commitments: most-favoured-nation treatment under Article I, the binding of tariff rates at negotiated ceilings under Article II, and the prohibition of quantitative restrictions under Article XI.[6] These commitments are qualified but not negated by a series of general exceptions, most notably the national security exception under GATT Article XXI and the general exceptions under Article XX.

Section 232 of the US Trade Expansion Act of 1962 authorises the President to restrict imports that threaten national security, while Section 301 of the Trade Act of 1974 provides authority to respond to unfair foreign trade practices. Both provisions have been invoked extensively in recent years, with Section 232 providing the legal basis for steel and aluminium tariffs imposed in March 2018 and Section 301 for a sweeping set of tariffs on Chinese goods ranging from consumer electronics to semiconductors.[7] The Biden administration's 2024 review escalated Section 301 tariffs on electric vehicles from 25% to 100% and doubled levies on solar panels and semiconductors.[8]



[6] *General Agreement on Tariffs and Trade 1994* (adopted 15 April 1994, entered into force 1 January 1995) 1867 UNTS 187 art XIX; *Agreement on Safeguards* (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 154.

[7] Trade Expansion Act 1962 (US) s 232; Trade Act 1974 (US) s 301.

[8] Office of the United States Trade Representative, *2024 Trade Policy Agenda and 2023 Annual Report* (USTR 2024) 12–19.

Figure 1: US Section 301/Section 232 Tariff Rates on Chinese Imports by Sector (2018 vs 2024)

III. THE PAIRING PROBLEM: A GAP IN EXISTING LAW

The practice that this article seeks to interrogate is not the use of sanctions or tariffs individually but their deliberate concurrent deployment against the same sovereign target. In the US-China trade conflict, this took the form of parallel tracks: Section 301 tariffs addressing technology transfer and intellectual property grievances, Section 232 tariffs addressing steel and aluminium on national security grounds, and a widening architecture of financial and investment restrictions, export controls under the Export Administration Regulations, and targeted OFAC designations against Chinese defence-linked entities.

The legal significance of the pairing lies in its cumulative effect. Each instrument, taken alone, may be defensible within its governing framework. The Section 232 tariffs, however contested, fall within the statutory authority of the executive and, arguably, within the Article XXI national security exception. Individual OFAC designations against designated entities may be justified as countermeasures or national security measures. But the deliberate orchestration of these instruments to exert maximum economic pressure on a single State, without any clearly defined legal standard of proportionality or a credible pathway to resolution, is a qualitatively different kind of conduct.[9]

No single WTO provision directly addresses this combination. The GATT Schedules of Concessions bind individual tariff lines; they do not address the systemic use of tariff policy as foreign policy. The DSU's jurisdictional perimeter is drawn around "measures" affecting trade in goods or services, not around the foreign policy architecture of which a given tariff forms one part.[10] Sanctions, meanwhile, are almost entirely outside the WTO's subject-matter jurisdiction. The result is a large legal lacuna at precisely the point where the most consequential trade conflicts of the contemporary period are being fought.

9Anthea Roberts and Nicolas Lamp, *Six Faces of Globalization: Who Wins, Who Loses, and Why It Matters* (Harvard University Press 2021) 89–112.

10 *Understanding on Rules and Procedures Governing the Settlement of Disputes* (adopted 15 April 1994, entered into force 1 January 1995) 1869 UNTS 401 art 3.2.

General international law is equally poorly equipped. The ICJ's jurisdiction in trade-related disputes is dependent on special agreement or treaty-based clause; the Court has no general compulsory jurisdiction in economic matters. The customary law of non-intervention prohibits direct coercion in matters of domestic jurisdiction but the precise threshold at which economic pressure becomes impermissible coercion remains deeply contested.[11]

IV. JUDICIAL TREATMENT: WTO AND ICJ JURISPRUDENCE

A. The Appellate Body Crisis and Its Consequences

The WTO Appellate Body ceased to function as a standing appellate tribunal in December 2019 when the United States, by blocking the appointment of new members, reduced the Body below the three-member quorum required for operation.[12] This development has had far-reaching consequences for the adjudication of trade coercion disputes. Panel reports in cases such as United States -- Tariff Measures on Certain Goods from China (2020) have been appealed into a procedural void, leaving the legal status of Section 301 tariffs formally unresolved at the WTO level despite their manifest inconsistency with GATT commitments.[13]

The consequence is that the sole forum with jurisdiction to determine whether US tariffs constitute GATT violations has been rendered functionally inoperative at the initiative of the very State whose measures are under challenge. This is not merely an institutional inconvenience but a structural manipulation of the rule-based order that bears directly on the legality question: a State cannot simultaneously invoke the legitimacy of the WTO framework and disable its enforcement mechanisms.

B. The Article XXI National Security Exception and its Progressive Stretching

GATT Article XXI permits Members to take measures they consider necessary for the protection of their essential security interests in certain defined circumstances, including

[11] *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* (n 5) paras 202–205.

[12] Dispute Settlement Body, 'Report by the Chairman to the General Council' (27 May 2020) WT/DSB/M/457.

[13] WTO Appellate Body Report, *United States—Tariff Measures on Certain Goods from China* WT/DS543/AB/R (adopted 26 October 2020).

actions relating to fissionable materials, traffic in arms, and actions taken in time of war or other emergency in international relations.[14] Until the Russia -- Traffic in Transit case (2019), the prevailing academic consensus was that Article XXI was entirely self-judging: that is, a Member's own determination that a measure was necessary for its security interests was immune from panel review.

The 2019 Panel in Russia -- Traffic in Transit disrupted this consensus by holding that while Article XXI is largely self-judging, panels retain jurisdiction to examine whether the objective element of the exception is satisfied, namely whether there is a genuine emergency in international relations and whether the impugned measure has at least a plausible connection to the alleged security interest.[15] This reasoning was affirmed, with refinements, in Saudi Arabia -- IP Rights (2020), where the Panel addressed Saudi Arabia's invocation of Article XXI in the context of the Gulf Cooperation Council blockade of Qatar.[16]

The significance for sanctions-tariff pairing is that the plausible connection standard, though modest, does provide a hook for WTO review. A tariff imposed ostensibly for national security reasons but in practice serving as one prong of a broader sanctions-and-tariff coercion campaign against a trading partner may struggle to satisfy even this relaxed standard, particularly where the stated security rationale is difficult to distinguish from an economic grievance dressed in security language.

[14] *GATT 1994* (n 2) art XXI(b).

[15] WTO Panel Report, *Russia—Measures Concerning Traffic in Transit* WT/DS512/R (adopted 26 April 2019) paras 7.101–7.132.

[16] WTO Panel Report, *Saudi Arabia—Measures Concerning the Protection of Intellectual Property Rights* WT/DS567/R (adopted 16 June 2020) paras 7.240–7.280.

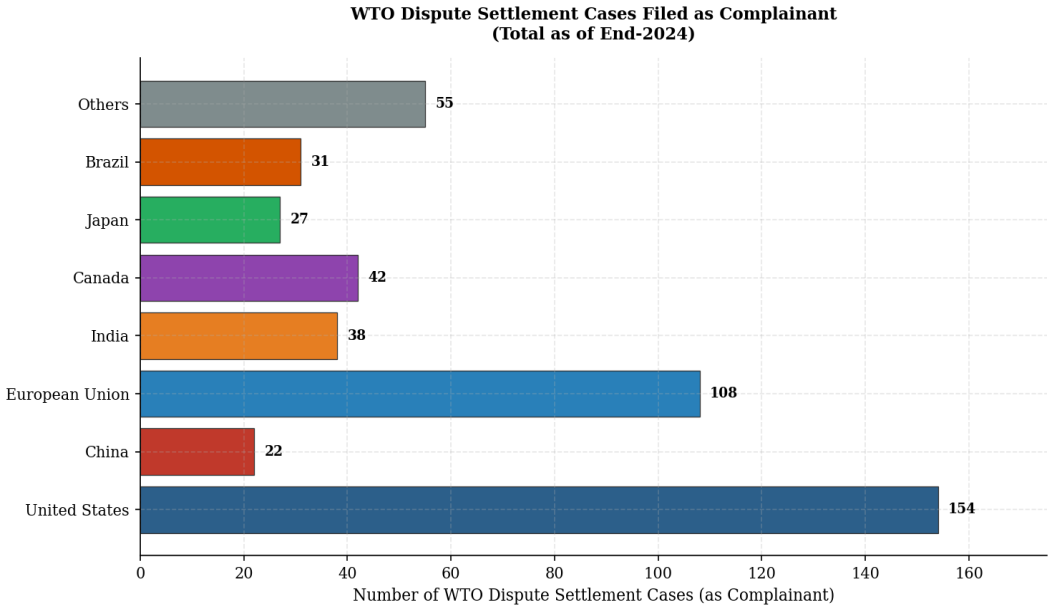


Figure 2: WTO Dispute Settlement Cases Filed as Complainant (Total as of End-2024)

Table 1: Sanctions and Tariffs as Instruments of Economic Coercion -- Comparative Overview

Dimension	Economic Sanctions	Punitive Tariffs
Legal Basis	UN Charter Art 41; domestic blocking statutes (IEEPA/EO); EU Reg 2023/2675	GATT 1994 Arts XIX-XXI; Trade Expansion Act s 232; Trade Act s 301
Primary Purpose	Foreign policy / security coercion; asset freezing	Trade balance correction; national security; retaliation
Target Specificity	Named individuals, entities, entire State sectors	Sector-wide; product-specific; origin-specific
WTO Compatibility	Outside WTO per se; GATT Art XXI national security exception claimed	Notionally subject to WTO DSU; Art XXI invoked to shield from review
Enforcement Body	UN Security Council (multilateral); OFAC/DG FISMA (unilateral)	WTO DSB; domestic courts (limited)
Reversal Mechanism	Executive delisting; sunset clauses (rare in practice)	Section 301 reviews; trade deal negotiations
Third-State Risk	Secondary sanctions extraterritoriality	Retaliatory tariffs; supply chain disruption

C. The ICJ and Economic Coercion

The International Court of Justice has addressed the legality of economic coercion in a small but instructive line of cases. In Military and Paramilitary Activities in and against Nicaragua (1986), the Court observed that while economic pressure short of armed force may not engage Article 2(4) of the Charter, it may still violate the customary principle of non-intervention if it is designed to coerce the target State in matters within its domestic jurisdiction.[17]

The Iran sanctions litigation of 2018 provides a more recent illustration. Iran brought proceedings against the United States in the ICJ following the reimposition of sanctions after US withdrawal from the Joint Comprehensive Plan of Action (JCPOA), invoking the 1955 Treaty of Amity as a basis for jurisdiction. The Court granted provisional measures requiring the US to ensure that the re-imposition of sanctions did not impede Iran's access to humanitarian goods, food, and medicine.[18] The US proceeded with the sanctions regardless, illustrating the limits of judicial enforcement in this area.

Table 2: Key WTO and ICJ Jurisprudence on Trade Coercion

Case / Instrument	Forum & Year	Core Issue	Outcome / Significance
US -- Tariff Measures on Certain Goods from China	WTO AB, 2020	Section 301 tariffs as GATT Art I/II violations	Panel found violation; AB report blocked by Appellate Body crisis
Russia -- Traffic in Transit	WTO Panel, 2019	Art XXI national security exception -- scope and justifiability	Panel held Art XXI not entirely self-judging; first substantive review
Saudi Arabia -- IP Rights	WTO Panel, 2020	Art XXI invoked for broadcast signal blocking (Qatar crisis)	Confirmed panel jurisdiction; "plausible link" to security interest required
US -- Shrimp/Turtle	WTO AB, 1998	GATT Art XX environmental exception -- unilateral extraterritorial measures	AB upheld measure with conditions; limits on unilateral coercive linkage

[17] *Nicaragua v United States* (n 5) paras 202–205.
[18] *United States Diplomatic and Consular Staff in Tehran (United States of America v Iran)* [1980] ICJ Rep 3, paras 56–58.

Nicaragua v USA (ICJ)	ICJ, 1986	Economic pressure as unlawful intervention in State affairs	Economic coercion held potentially violative of non-intervention principle
US -- Iran ICJ Provisional Measures	ICJ, 2018	JCPOA sanctions; customary international law of non-interference	ICJ ordered humanitarian carve-outs; sanctions re-imposed regardless

V. THE RISE OF DOMESTIC ANTI-COERCION LEGISLATION

A. The European Union's Anti-Coercion Instrument

The European Commission proposed its Anti-Coercion Instrument (ACI) in December 2021, and the regulation entered into force in late November 2023.[19] The Instrument authorises the EU to impose countermeasures in response to economic coercion by third States directed at the Union or its Member States. The trigger is the determination by the Commission that a third State is seeking to influence legitimate EU or Member State choices by applying or threatening to apply measures affecting trade or investment.

The ACI represents a significant normative development for several reasons. First, it establishes a legal definition of economic coercion in EU law, something that general international law has conspicuously failed to do. Second, it creates a graduated response ladder, prioritising dialogue and WTO dispute settlement before authorising trade countermeasures, which at least gestures toward proportionality. Third, its adoption was partly triggered by China's informal trade restrictions against Lithuania following Lithuania's decision to establish a de facto diplomatic representation for Taiwan, an episode that exposed the inadequacy of existing EU trade defence instruments.[20]

B. The United States, China, and Other Jurisdictions

The United States has not enacted a specific anti-coercion statute, but its existing arsenal of trade and financial coercion instruments is unmatched in its breadth. IEEPA, Section 232,

[19]Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries [2023] OJ L, 2023/2675.

[20]European Commission, 'An Anti-Coercion Instrument: Questions and Answers' (8 December 2021) https://ec.europa.eu/commission/presscorner/detail/en/QANDA_21_6642 accessed 10 June 2026.

Section 301, the Export Administration Regulations, the Foreign Direct Product Rule, and the OFAC designation machinery collectively provide an executive branch with near-unlimited authority to impose economic pressure without congressional approval in many circumstances.[21]

China's response to being on the receiving end of this apparatus has been the enactment of the Anti-Foreign Sanctions Law (AFSL) in June 2021 and the development of the Unreliable Entity List. The AFSL authorises countermeasures against foreign individuals and entities that directly or indirectly participate in the formulation of discriminatory measures against Chinese citizens or organisations. Its extraterritorial reach and the deliberate vagueness of its trigger conditions have attracted significant criticism from multinational corporations and legal commentators.[22]

The proliferation of these domestic instruments represents a structural change in the architecture of international economic relations. Where States once relied principally on the WTO's multilateral machinery to address trade grievances, they now maintain substantial unilateral coercion arsenals and countermeasure frameworks. The system is evolving from one of negotiated rule-following into one of managed power-balancing, with legal norms serving as post-hoc justifications for instruments whose design is primarily political.[23]

Table 3: Major Domestic Anti-Coercion Instruments by Jurisdiction (2024)

Jurisdiction	Instrument	Trigger	Countermeasures	Status (2024)
European Union	ACI Regulation 2023/2675	Third-State economic coercion of EU/Member State	Tariff surcharges; service restrictions; FDI screening	In force Nov 2023

[21]Elena Chachko, 'The Domestic and International Legal Framework for US Targeted Sanctions' (2020) 45 *Yale Journal of International Law Online* 1, 4–8.

[22]Anna Gelpern and others, *How China Lends: A Rare Look into 100 Debt Contracts with Foreign Governments* (AidData and Peterson Institute for International Economics 2021).

[23]Joel P Trachtman, *The Economic Structure of International Law* (Harvard University Press 2008) 203.

United States	IEEPA; Section 301; Section 232	Unusual/extraordinary threat; unfair trade practice; national security	Blocking orders; tariffs; export controls	Multiple orders active
United Kingdom	Trade (Australia/NZ) Act 2023; ICTF	Coercive trade measures by third States	Retaliatory tariffs; procurement exclusion	Consultative stage
China	Anti-Foreign Sanctions Law 2021; Unreliable Entity List	Discriminatory measures against Chinese entities	Countermeasures against foreign persons/entities	Actively applied
India	Customs Act 1962 s 8A; QCOs	Surge imports; security concerns	Safeguard duties; quality control orders	Expanding scope

VI. THE STATISTICAL LANDSCAPE OF SANCTIONS AND TARIFF ESCALATION

The empirical dimension of this subject is indispensable to understanding its legal gravity. The growth of economic coercion as a practised instrument of statecraft is not a rhetorical characterisation but a quantitatively demonstrable trend.

The OFAC Specially Designated Nationals list has grown from approximately 3,800 entries in 2000 to nearly 19,800 in mid-2024, a compound annual growth rate of roughly 7.5 per cent.[24] EU sanctions designations have expanded from under 200 entries in 2000 to over 10,500 following the post-2022 Russia designations. UN Security Council designations have grown more modestly, from around 400 to approximately 1,980, reflecting the structural limitations imposed by the veto power on Council action against major powers.

[24] OFAC, 'SDN List Statistics' (n 4).

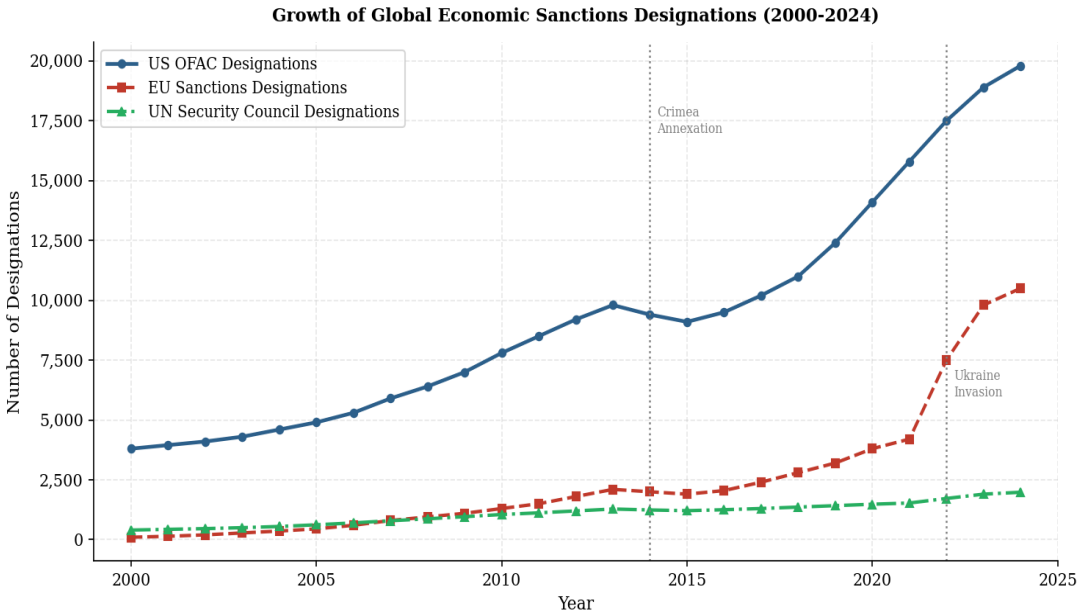


Figure 3: Growth of Global Economic Sanctions Designations by Regime (2000-2024)

WTO dispute settlement has tracked a parallel pattern of stress. As of January 2025, 631 disputes had been initiated since the WTO's founding.[25] Of these, a significant proportion in the post-2018 period involve measures whose primary character is coercive economic pressure rather than conventional trade defence. The US is by far the most active complainant in WTO history, with over 154 disputes initiated, but is simultaneously the State most responsible for undermining the Appellate Body that adjudicates those disputes.[26]

UNCTAD data indicate that the number of trade-restrictive measures notified to the WTO increased from an average of around 200 per year in the pre-2018 period to over 450 per year between 2020 and 2023.[27] This escalation reflects both the COVID-19 induced supply chain disruptions and the deliberate multiplication of coercive trade instruments in the context of geopolitical rivalry. The humanitarian dimension cannot be overlooked: empirical research on Iran and Syria has documented severe consequences of broad sanctions for civilian access to

[25]WTO Dispute Settlement Body, 'Overview of the State of Play of WTO Disputes' (1 January 2025) WT/DSB/OV/23.

[26] WTO, *Disputes by Member* https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm accessed 11 June 2026; 'Report by the Chairman to the General Council' (n 10).

[27]United Nations Conference on Trade and Development, *Trade and Development Report 2023: Growth, Debt and Climate—Realigning the Global Financial Architecture* (UNCTAD 2023) 72–81.

food, medicine, and healthcare, consequences that are compounded when sanctions are paired with import barriers that also constrain third-country suppliers.[28]

VII. STRUCTURAL WEAKNESSES AND THE CASE FOR REFORM

A. The Absence of a General Prohibition on Economic Coercion

The most fundamental gap in the existing legal framework is the absence of a clear and enforceable prohibition on economic coercion in general international law. The Declaration on Principles of International Law Concerning Friendly Relations (1970) states that no State may use or encourage the use of economic, political, or any other type of measures to coerce another State, but this formulation has the status of a General Assembly resolution rather than hard law and has not been operationalised through any binding treaty or adjudicatory mechanism.[29]

Various proposals have been made over the years for a treaty framework on economic coercion, none of which has achieved sufficient State support to progress to negotiation. The UNCTAD Havana Charter of 1948, which would have included enforceable non-coercion provisions, failed to enter into force. The New International Economic Order resolutions of the 1970s articulated principles of economic sovereignty and non-coercion but remained aspirational. The current geopolitical environment makes a new multilateral initiative in this area even less likely than in previous decades.

B. The WTO's Jurisdictional Limitations

The WTO agreements were not designed to govern the use of trade as a foreign policy instrument. The GATT and its successor agreements were concerned primarily with discriminatory and protective trade practices, not with the weaponisation of market access as leverage in geopolitical disputes. This has meant that the WTO's dispute settlement machinery

[28]Erica Moret, 'Humanitarian Impacts of Economic Sanctions on Iran and Syria' (2015) 20(1) *European Security* 1, 3–11.

[29]UNGA Res 77/301 (31 May 2023) UN Doc A/RES/77/301 ('Unilateral Economic Measures as a Means of Political and Economic Coercion against Developing Countries').

has repeatedly had to stretch and strain to reach conduct that sits on the cusp of trade law and security policy.[30]

The Appellate Body crisis has compounded this problem by removing the one mechanism that could, at least in principle, develop consistent and authoritative jurisprudence on the limits of national security-justified trade restrictions. The informal Multi-Party Interim Appeal Arbitration Arrangement (MPIA), established by the EU and a coalition of WTO Members in 2020 as a workaround for the Appellate Body paralysis, offers partial relief but cannot substitute for a functioning appellate body with universal membership.[31]

C. Secondary Sanctions and Extraterritoriality

Secondary sanctions, which impose penalties on third-State nationals for lawful business with sanctioned targets, represent perhaps the most aggressive edge of the coercion toolkit. The United States has imposed secondary sanctions in the context of Iran, Russia, North Korea, and Venezuela, among others. The EU has enacted blocking legislation in response, most recently updated in relation to the Iran nuclear programme, which purports to nullify the extraterritorial effects of US secondary sanctions within EU jurisdiction.[32]

The legal basis for secondary sanctions under international law is deeply contested. The prevailing view among international law scholars is that the imposition of liability on third-State nationals for conduct lawful under their own domestic law and the law of the State where it occurred violates the customary international law principles of territorial sovereignty and non-intervention.[33] The United States' position, that its economic interests give it sufficient nexus to regulate foreign commerce touching on those interests, has not been accepted as a matter of general law by any international tribunal.

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[30] Raj Bhala, *International Trade Law: Interdisciplinary Theory and Practice* (4th edn, LexisNexis 2019) 1547.

[31] WTO, *Multi-Party Interim Appeal Arbitration Arrangement Pursuant to Article 25 of the DSU* (30 April 2020) JOB/DSB/1/Add.12; 'Report by the Chairman to the General Council' (n 10).

[32] Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran [2012] OJ L88/1, as amended by Council Regulation (EU) No 1263/2012 of 21 December 2012 [2012] OJ L356/34.

D. Proposals for Reform

Three reform directions merit consideration. The first is a multilateral treaty on economic coercion within the UN framework, establishing a binding definition of prohibited coercive economic measures, a proportionality standard for permissible countermeasures, and a dispute settlement mechanism with genuine enforcement capacity. The political obstacles to such an instrument are formidable, but the alternative, a system in which major powers freely weaponise trade without legal constraint, carries its own considerable costs in terms of global economic instability.

The second is the restoration and reform of the WTO Appellate Body, which must entail the abandonment of the practice of blocking appellate appointments as a tool of policy. Broader reform of the DSU to address its jurisdictional lacunae with respect to security-justified trade restrictions, and to provide faster and more effective remedies, would substantially improve the system's capacity to discipline sanctions-tariff pairing.

The third, and most modest, is the development of agreed interpretive guidelines by the WTO Membership on the scope and conditions of Article XXI, drawing on the jurisprudence of the Russia -- Traffic in Transit and Saudi Arabia -- IP Rights panels to give more concrete meaning to the plausible connection standard. This would not require treaty amendment and could be achieved through a Ministerial Conference decision or General Council interpretation.

VIII. CONCLUSION

The weaponisation of trade, understood as the deliberate pairing of sanctions and tariffs to exert maximum coercive pressure on a sovereign target, represents one of the defining legal challenges of contemporary international economic relations. The existing legal architecture is ill-suited to address it. The WTO framework, designed for a world of straightforward protectionism rather than geopolitical rivalry, struggles to reach the full scope of the conduct. General international law's non-intervention principle provides a normative benchmark but lacks effective enforcement mechanisms. Domestic anti-coercion statutes, proliferating across major jurisdictions, represent rational responses to specific vulnerabilities but further fragment the normative order rather than restoring it.

The jurisprudential developments reviewed in this article, from the WTO Panel's cautious assertion of jurisdiction over Article XXI in Russia -- Traffic in Transit, to the ICJ's provisional measures in the Iran sanctions case, to the EU's codification of a coercion definition in the Anti-Coercion Instrument, are collectively mapping the outer boundaries of permissible conduct without yet establishing a coherent regime. They are, in that sense, the early chapters of a legal story whose resolution will shape the character of international economic order for decades to come.

If the international community is serious about preserving a rule-based trading order, it must confront the pairing problem directly. This means restoring the Appellate Body, developing meaningful constraints on the national security exception, addressing the extraterritorial reach of secondary sanctions, and ultimately considering whether a dedicated multilateral instrument on economic coercion can attract the political will its predecessors could not. The alternative, a world in which the largest economies freely use their market power as a foreign policy weapon, is not merely legally unsatisfactory. It is, as the statistics reviewed in this article make plain, already producing humanitarian and systemic consequences that no amount of doctrinal ambiguity can obscure.